IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.25704 of 2008
ASHOK PANDEY s/o Late Yugal Pandey,
resident of village Kuraro,
P.S.Bounsi District Patna.
Versus
STATE OF BIHAR
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3 20.10.2008 Heard.

The F.I.R. was lodged under Section 376/511 IPC wherein the complainant has alleged that in the dead of night at about 12 O'clock while she along with her three laughers and two sons was sleeping in her house and her husband had gone out, the petitioner entered into the house and forcibly committed rape on her and that on her cry and also cries of children who woke up, the petitioner fled away and the informant also claimed to identify the petitioner in the light of the lamp.

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Learned counsel for the petitioner submitted that in her further statement in Para-4 of the case diary, the victim-informant has stated that the petitioner had opened her clothes and had forcibly tried to commit rape but on the cry of her and her children he fled away. It is also submitted that the Deputy Superintendent of Police, the Supervising authority has opined a case of Section 376/511 IPC.

Mr.S.R.Haque, learned A.P.P. submits that, no doubt, the allegation of committing rape is not fully supported in her further statement but the complainant has said that in the dead of night, the petitioner entered in the house and undressing her had tried to commit rape but due to her cry and protest as well as cries of children fled away. Learned A.P.P. also refers to the statement of daughters and sons

of the informant as mentioned in different paragraphs of the case diary and points out that the daughters and sons of the informant have also started that the petitioner had undressed their mother and had forcibly tried to commit rape on her. Petitioner is said to be in custody since 12th March 2008.

Under the circumstances, I do not feel inclined to allow bail to the petitioner for the present. His prayer for bail is refused. However, if so advised, petitioner may renew his prayer after completion of two years of incarceration from the date of remand in the case..

Jay/ **(C.M. Prasad,J)**

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